

CHUGACH ALASKA CORPORATION SETTLEMENT  
IMPLEMENTATION

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OCTOBER 6, 1998.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3087]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3087) to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. CHUGACH ALASKA CORPORATION SETTLEMENT IMPLEMENTATION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, not later than December 11, 1998, the Secretary of Agriculture shall grant Chugach Alaska Corporation an irrevocable and perpetual 500-foot-wide easement for the construction, use, and maintenance of nonpublic roads and related facilities necessary for access to and economic development of the land interests in the Carbon Mountain and Katalla vicinity that were conveyed to Chugach Alaska Corporation pursuant to the Alaska Native Claims Settlement Act. The centerline of the easement is depicted on the map entitled “Carbon Mountain Access Easement” and dated November 4, 1997.

(b) **SUBMISSION OF SURVEY; RELINQUISHMENT OF UNNEEDED PORTION OF EASEMENT.**—Not later than 90 days after completion of construction of roads and related facilities on the easement granted pursuant to subsection (a), Chugach Alaska Corporation shall submit to the Secretary of Agriculture an as-built survey of such roads and related facilities and relinquish to the United States those portions of the easement Chugach Alaska Corporation deems not necessary for future use.

(c) CONSTRUCTION AND MAINTENANCE.—Construction and maintenance of any roads pursuant to subsection (a) shall be in accordance with the best management practices of the Forest Service as promulgated in the Forest Service Handbook.

#### PURPOSE OF THE BILL

The purpose of H.R. 3087 is to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 3087 grants to the Chugach Alaska Corporation (CAC) a perpetual 500-foot wide right-of-way for certain roads and related facilities across the Chugach National Forest. The corporation represents the Chugach Natives of south-central Alaska. The easement will ensure CAC has access to a 73,000-acre tract of land the Natives were awarded pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA). H.R. 3087 provides that when construction of the road is complete, CAC relinquish those portions of the right-of-way not necessary for future use. The end result will be a forest road.

ANCSA declared the settlement of Natives' land claims would be "accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives. \* \* \*" In the Chugach Natives' case, however, the settlement has been honored by the Administration only half-way, reluctantly, with litigation, and with relatively low regard to the economic need of the Chugach Natives.

After 11 years of delays in acquiring its ANCSA entitlement, CAC was granted land with access rights in the 1982 Chugach Natives, Inc. Settlement Agreement. The Settlement Agreement granted the corporation a 73,000-acre tract of property in the Chugach National Forest and an easement for roads and related facilities to the land. To address environmental considerations, the Settlement Agreement permits the Secretary of Agriculture to require CAC to perform an environmental analysis.

The property was conveyed in 1983; however, CAC's entitlement is incomplete because 15 years later the federal government has still not issued the easement for road access.

During a Committee hearing, the Forest Service reported it was close to signing a Memorandum of Understanding (MOU) which would set in motion the process of issuing the easement by December 11, 1998. After the hearing, the MOU was signed by all parties. While an important component to the issuance of the easement, the MOU does not obviate the need for legislation; the document is not legally binding or enforceable, and can be terminated by the Forest Service, or expire without renewal. This means there is no date on which the easement will be granted with certainty.

The lack of a legally binding, enforceable commitment to convey the easement is inexcusable given the difficult delays the Chugach Natives have encountered trying to secure promises made to them 27 years ago. Whereas ANCSA was supposed to bring the opportunity of economic benefit to the Natives, it has in some ways become a financial burden to the corporation because the long delays have been expensive and resulted in lost opportunity. This is contrary to the aims of the landmark settlement act.

Without access, the Natives do not have the use and economic benefit of property Congress intended them to have 27 years ago, effectively denying the Natives a key part of their land claims settlement.

The purpose of H.R. 3087 is to convey the promised easement by a time-certain date. The legislation as introduced requires the Secretary of Agriculture to convey the easement within 90 days after enactment; however, the Committee adopted an amendment during its consideration of the measure to change the effective day to December 11, 1998, allowing CAC time to complete its environmental analysis.

The easement is 500-feet wide to allow CAC enough space in which to locate the road in an environmentally responsible manner. Because the Settlement Agreement reserves standing timber to the United States, CAC is allowed to remove only that timber which is necessary for a road. After construction is complete, CAC must relinquish those portions of the easement not needed for future use.

The Committee also adopted an amendment which requires construction and maintenance of the road to be in accordance with the best management practices of the U.S. Forest Service, as promulgated in the Forest Service Handbook.

As to other requirements and obligations of CAC and the government, terms of the 1982 Settlement Agreement will continue to apply.

#### COMMITTEE ACTION

H.R. 3087 was introduced on November 13, 1997, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources. On February 25, 1998, the Committee held a hearing on H.R. 3087 where testimony was received from witnesses representing the Administration, the Chugach Alaska Corporation, and from the environmental community. On March 11, 1998, the full Resources Committee met to consider H.R. 3087. An amendment in the nature of a substitute was offered by Congressman Young, and adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 3087.

## COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 3087. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

## COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 3087 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3087.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3087 from the Director of the Congressional Budget Office.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 27, 1998.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3087, a bill to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

*H.R. 3087—A bill to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation*

H.R. 3087 would direct the Secretary of Agriculture to grant Chugach Alaska Corporation an irrevocable and perpetual 500-foot wide easement across federal land as depicted on a map entitled "Carbon Mountain Access Easement" and dated November 4, 1997.

The bill would require the Secretary to grant the easement by December 11, 1998.

CBO estimates that implementing the bill would have no significant impact on the federal budget. Because enacting H.R. 2416 would not affect direct spending or receipts, pay-as-you-go procedures would not apply to the bill.

H.R. 3087 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. The bill would benefit the Chugach Alaska Corporation, a regional native corporation in Alaska, by facilitating its development of currently inaccessible lands.

The CBO staff contacts for this estimate are Victoria V. Heid (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 3087 contains no unfunded mandates.

#### CHANGES IN EXISTING LAW

If enacted, H.R. 3087 would make no changes in existing law.

## DISSENTING VIEWS

We strongly oppose this bill. There is no legitimate purpose served by Congress intervening in a complex and controversial matter subject to an ongoing administrative process and governed by existing agreements and law. On behalf of the Forest Service, the Secretary of Agriculture has recommended that the President veto this bill if enacted.

H.R. 3087 would mandate an unprecedented 500 foot road easement to facilitate the development of private corporation lands in the Chugach National Forest in Alaska. Ironically, President Theodore Roosevelt and Gifford Pinchot created the Chugach National Forest in 1907 to protect it from exploitation by the Alaska Syndicate, a coal monopoly formed by the Guggenheim Brothers and John Pierpont Morgan. But under a 1982 Settlement Agreement negotiated by the Reagan Administration, the Native regional corporation now known as Chugach Alaska Corporation received title to 73,000 acres at Bering River and a right of access through the national forest.

Chugach Alaska Corporation plans to build a 26 mile road to the Bering River lands in order to clearcut about 8,000 acres and export the logs. Coal rights have been sold to Korean interests. It is unclear how much building a costly (and controversial) road and would benefit the Chugach shareholders, considering the depressed Pacific Rim markets for both logs and coal.

Beginning with the phrase, "notwithstanding any other provision of law," this bill grants Chugach rights beyond those specified in the 1982 Settlement Agreement. It provides exemptions from environmental laws. It grants a "irrevocable and perpetual" 500 foot wide easement. It allows for "related facilities necessary for access to and economic development of the land interests." It deems the road to be "non-public" contrary to the 1982 Settlement Agreement which clearly reserves a right of public access.

The negotiations between the Forest Service and Chugach involve complex issues and affect nationally significant natural resources. In the Alaska National Interest Lands Conservation Act, Congress directed that "conservation of fish and wildlife habitat shall be the primary purpose for the management" of the Copper River-Bering River area, in effect treating these lands as a national fish and wildlife refuge under Forest Service management. The proposed Chugach road would cross more than 200 bodies of water, including anadromous salmon streams, and affect wetlands which provide critical habitat for millions of shorebirds and migratory waterfowl which use the Pacific Flyway.

We should not undercut the current negotiations and fuel the fires of environmental controversy by enacting this bill. Instead, Congress should be considering whether the Chugach lands could be purchased or exchanged for other federal assets, with a goal of

greater direct economic benefit to the Chugach shareholders while retaining the integrity of the national forest.

GEORGE MILLER.  
MAURICE HINCHEY.

